

Executive – 6 November 2008

EXEMPTIONS TO STANDING ORDERS RELATING TO CONTRACTS, AND FINANCIAL INSTRUCTIONS

Report of the Strategic Director (Resources)

Statutory Powers: s.135(3) Local Government Act 1972.

Financial Implications: This report details exemptions to the Standing Orders Relating to Contracts and Financial Instructions, the financial details of which are set out in the Appendices.

Purpose

The purpose of this report is to inform members of the exemption(s) to the Standing Orders Relating to Contracts and Financial Instructions since the previous Executive meeting, in accordance with the procedure approved by the Council: Minute references 70/07 and 49/07 refers.

Link to Council's Priorities – CP6 Improving core service performance in a cost effective way.

RECOMMENDATIONS

That the Executive RESOLVES to note the exemptions to the Standing Orders Relating to Contracts and Financial Instructions attached at Appendix A and B.

Background

1. The Council and its Executive have power to authorise exemptions from the requirement to adhere to the Standing Orders Relating to Contracts and Financial Instructions approved by the Council in December 2007 (Minute references 70/07 and 49/07).
2. These documents state that in certain circumstances, with approval, an officer may seek an exemption from the need to invite tenders or quotations for the purchase of goods, works or services without a detailed written report to members.
3. The intention is to make the Exemption process more flexible and less time consuming than that requiring a full report to the Executive in all cases.

Exemptions to Standing Orders Relating to Contracts – Appendix A (Amounts between £30,000 and the relevant EU Limit)

4. Appendix A summarises the applications for exemption to Standing Orders Relating to Contracts approved through the exemption process since the last Executive meeting.

Exemptions to Standing Orders Relating to Contracts – Appendix B (Amounts between £3,000 and £30,000)

5. Appendix B summarises the applications for exemption to Financial Instructions approved through the exemption process since the last Executive meeting.

Risk Assessment

6. The following are the significant risks and opportunities identified:

Opportunity	Issues / Obstacles	Benefits
<p>The process for providing officers with approval for exemptions to the Standing Orders Relating to Contracts and Financial Instructions, in certain circumstances, provides more flexibility and the ability to react promptly to situations that arise. This less bureaucratic approach, compared with a formal report to members in all cases, saves time for both members and officers. It retains the control elements needed within a procurement process.</p>	<p>There is a risk that controls within the procurement procedures are undermined if the process is inflexible, bureaucratic and time consuming. If the above situation was allowed to persist the Council may not achieve best value for money in the purchase of goods, works and services.</p>	<p>The key benefits of the process are: <i>Greater flexibility:</i> managers are able to react quickly to procure services etc. that may reduce the risk of harm to the public or staff, save time, money and/or embarrassment. <i>Increased openness:</i> a less bureaucratic approach, in certain circumstances, will encourage managers not to 'take a chance' and ignore procurement rules in high pressure situations.</p>

Conclusion

7. The process for providing officers with approval for exemptions to the Standing Orders Relating to Contracts and Financial Instructions, in certain circumstances, provides more flexibility and the ability to react promptly to situations that arise. It is also a more efficient and less bureaucratic approach than that previously in place.

Allan Goodman
Internal Audit Manager

Executive
 6 November 2008

Mark Seymour
Strategic Director (Resources)

List of Appendices:

Appendix A: Summary of Exemptions to Standing Orders Relating to Contracts

Appendix B: Summary of Exemptions to Financial Instructions

Background Documents:

Signed exemption application pro-formas are available to view upon request from Member Support Services.

**SUMMARY OF EXEMPTIONS TO STANDING ORDERS RELATING TO CONTRACTS
(AMOUNTS BETWEEN £30,000 and the EU LIMIT), APPROVED SINCE THE LAST EXECUTIVE**

Appendix A

Lead Officer	Summary of the Application	Reason for the Exemption	Value and Budget
Strategic Director (Community)	<p>Interim Cover of Staff Vacancies from External Agencies i) Acting Head of Property Service Members will recall that the Head of Property Services left in March 2008. Having informally reviewed the options it was concluded that a short term interim appointment be made using an agency, pending the proposed development of a joint property service with Teignbridge and West Devon. Following an informal market review, the best value option was determined to be using NPS South West Ltd to provide an interim manager. While the outsourcing option was more expensive than a traditional approach to recruitment, it was felt that a permanent appointment was not appropriate given the expectation that a joint head of a shared service would be appointed by the end of the summer. NPS South West was chosen to provide the interim arrangement over other available options. The company are the outsourced property arm of Devon County Council. Their core business is to provide property services to the public sector. As an interim measure NPS agreed to a 4 day a week appointment to the Head Of Service role at an 'introductory' cost well below their normal charge out fee to ensure the temporary arrangement could be funded within the salary budget available for the post. Subsequently, as a consequence of uncertainty emerging from Local Government Review, the joint service arrangements for property services were put on hold.</p>	<p>Increased Cost: The service being provided by NPS is currently meeting our requirements and to seek a new provider is likely to increase our costs and lose the local knowledge obtained to date. Embarrassment: Urgent actions are required to maintain key corporate priorities and work streams.</p>	<p>The additional cost will be funded from a combination of salary savings from vacant posts (the Head of Property Services and Facilities Manager posts) and the £15,000 per annum identified for two years to fund carbon management work, in view of the project management role for this initiative undertaken by interim Head of Property Services.</p>

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Appendix A

Lead Officer	Summary of the Application	Reason for the Exemption	Value and Budget
Strategic Director (Community)	<p>Interim Cover of Staff Vacancies from External Agencies (Continued) i) Acting Head of Property Service (Continued) This left the Council with a problem in relation to the vacant post. Therefore the interim arrangement was extended until October to enable existing property work to continue.</p> <p>The Council now faces a further period of uncertainty pending the Secretary of State's decision on LGR, at a time when a range of key programmes and projects are ongoing, including the capital programme, the carbon management programme, condition surveys and the review of all assets, the Langage CPO, consultation on the new Shoreline Management Plan, resolution of long running management issues at Dartmouth Embankment, the potential transfer of assets based on the possible devolution of services, and ongoing day to day service management.</p> <p>To recruit for a permanent senior post in view of the current levels of uncertainty could be difficult, and the post is unlikely to be attractive. Based on the informal market testing undertaken at the time of formulating the initial interim arrangement it is unlikely that using another external agency would be any cheaper than contracting with NPS.</p> <p>Furthermore exploring a new option would result in the loss of existing knowledge already gained by the interim manager. Indeed if a Devon Unitary proposal is the Secretary of State's decision, it is likely that the district based property services in Devon could well be operated by NPS South West.</p>	As above.	As above.

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Strategic Director (Community)	<p>Interim Cover of Staff Vacancies from External Agencies (Continued) i) Acting Head of Property Service (Continued) However to extend the interim arrangements until the end of March when the government's decision about LGR is expected will require a significant increase in the charge to the Council by NPS from £345 per day to £500 per day. The normal charge out rate is £600 per day.</p>	As above.	As above.
Strategic Director (Community)	<p>ii) Energy Management - Carbon Trust Programme As part of the carbon trust programme, the Council has needed to purchase some external support to undertake energy surveys and analysis of the data. Members will recall that when the Council joined the programme, it was expected that a joint carbon management post with Teignbridge would be established. Teignbridge decided in the summer that the scale of work to be undertaken within their own organisation would mean that a joint initiative would not be pursued. By this time the Council was committed to the Carbon Trust's carbon management programme and to keep the programme on target an urgent appointment needed to be made. In the light of concerns about the cost of energy and the increased focus on reducing carbon footprints, the skills required are in short supply. It was therefore agreed to use energy management skills within NPS South West to provide a day a week of consultancy at an estimated cost of £10,000. This additional support would run until the end of the Carbon Trust programme in March 2009.</p>	Limited Markets – there is a particular shortage of energy advisers.	As above.

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Strategic Director (Community)	<p>Interim Cover of Staff Vacancies from External Agencies (Continued) iii) Langage Compulsory Purchase Order CPO is a specialist area of activity and the Council currently receives external legal and planning advice, and this is funded through the Langage Energy Centre Section 106 agreement at no cost to the Council. The Council is likely to need some specialist CPO valuation and estate advice. It is suggested that this is also potentially procured through NPS South West. This would enable the current interim manager to continue to provide input in the Langage CPO but also enable him to call on specialist advice from the parent organisation when needed, particularly if required at short notice. This advice would also be funded through the Section 106 Agreement at no cost to the Council. The final decision on whether to procure the advice from NPS, or from other external consultants will be dependant on how urgently advice is required as the CPO process progresses.</p>	As above.	Funded through the Langage Energy Centre Section 106 agreement at no cost to the Council.

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Strategic Director (Community)	<p>Interim Cover of Staff Vacancies from External Agencies (Continued): Risks And Reasons For Exemption:</p> <p>Without the staffing support identified above there are a range of key corporate projects which would not proceed.</p> <p>Undoubtedly the conventional appointment of a manager into the vacant post would be cheaper, but the consequences of uncertainty created by the interruption to the shared services programme, and LGR suggest that a permanent appointment may not be appropriate or indeed possible.</p> <p>Decisions to extend contracts or appoint staff from NPS have been taken urgently to minimise the impact of disruption on key work activities, and have appeared to be cost effective in terms of the knowledge gained by the agency staff used to date and awareness of the nature of council activity because of the background of the company. Indeed the current approach may be the way forward if a unitary Devon decision emerges.</p> <p>It is concluded that in combination the factors identified above provide appropriate reasons for an exemption to following contract standing orders.</p>	As above.	As above.

**SUMMARY OF EXEMPTIONS TO FINANCIAL INSTRUCTIONS
(AMOUNTS BETWEEN £3,000 and £30,000), APPROVED SINCE THE LAST EXECUTIVE**

Appendix B

Lead Officer	Summary of the Application	Reason for the Exemption	Value and Budget
<p>Head of Environment Services</p>	<p>Disposal of Mechanical Road Sweeper Environment Services are looking to dispose of a 7.5 tonne Mechanical Sweeper. This vehicle was first registered in 2001 and has a serious mechanical fault. The cost of repair to this vehicle would be in excess of £5500. The Financial Instructions state that the disposal of vehicles shall be either part exchange or public auction. An approach has been made to directly purchase from ourselves Mechanical Road Sweeper – registration number: GN51 WBX, fleet number: 513. This offer has been made by a sweeper hire company. They have confirmed; an offer of £2500 (two thousand and five hundred pounds), the machine is to be bought unseen on the word that we have thoroughly described the faults, payment will be transmitted prior to collection by a means requested by ourselves and they will arrange collection, at no extra cost to ourselves, at a time and place convenient to both parties. Our usual course of action for the disposal of this particular type of vehicle is being sent to Auctions at Merthyr Tydfil. Having contacted them, they would advise this vehicle may attract a hammer price of up to £2000. Deduction would then have to be made for; entry fee, collection charge, and cleaning (approximately £330) and a commission charge of 12% as a further deduction. This direct sale would be more beneficial to the Council.</p>	<p>Increased Cost (of disposal). Limited Markets (for the vehicle type).</p>	<p>£2500</p>